

AMENDMENTS TO THE DRAWINGS

FIGURE 15B has been amended per the suggestion of the Examiner. One replacement sheet illustrating FIGURE 15B, including the amendment thereto, is attached to this amendment.

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REMARKS

Applicants respectfully request reconsideration of the above-identified application. Clarifying amendments have been made to Claims 1, 3, 4, 7, 8, 18, and 19, Claims 2 and 36-39 have been canceled, and Claims 40-52 have been added. Accordingly, Claims 1, 3-19, and 40-52 are pending in the present application.

Claims 1-19 and 36-39 were rejected in an October 23, 2006, Office Action ("Office Action"). In particular, Claim 19 stands rejected as being anticipated by PCT Published Application No. WO 92/19422 ("Lucas"); Claim 39 stands rejected as being anticipated by U.S. Patent No. 5,556,250 issued to Fretwell et al. ("Fretwell"); Claim 39 stands further rejected as being obvious over Fretwell in view of Lucas; Claim 18 stands rejected as being obvious in view of U.S. Patent No. 6,309,170 issued to Vartanian ("Vartanian") and U.S. Patent No. 4,718,812 issued to Smalley et al. ("Smalley"); Claims 36-38 stand rejected as being obvious over U.S. Patent No. 5,865,593 issued to Cohn ("Cohn") in view of Vartanian; Claims 1, 6, 8, 9, and 14-17 stand rejected as being obvious over Cohn in view of Vartanian and Smalley; Claims 2-5 and 7 stand rejected as being obvious over Cohn in view of Vartanian and Smalley, and further in view of Patent Application Publication No. US 2003/0213653; and Claims 10-13 stand rejected as being obvious over Cohn in view of Vartanian, Smalley, and Lucas. Claims 1-17 and 36-39 were further rejected as being indefinite, and the drawings were objected to because of a minor informality.

Objections to the Drawings

The drawings were objected to because of a minor informality in FIGURE 15B. In response to such objection, applicants submit herewith a new amended drawing sheet illustrating FIGURE 15B. Accordingly, applicants respectfully request withdrawal of the objection to the drawings.

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Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 1-17 and 36-39 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants have canceled Claims 36 through 39, thus rendering the rejections to these claims moot. Applicants have amended Claims 1, 3, 4, and 7 to address the remaining deficiency raised in the Office Action at paragraph 5. Accordingly, applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 112 with respect to these claims.

Claim Rejections Under 35 U.S.C. § 102(b)

Claim 19 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Lucas. Claim 39 stands rejected under 35 U.S.C. § 102(b) as anticipated by Fretwell. Applicants have canceled Claim 39, thus rendering the rejection to this claim moot. Applicants respectfully traverse the rejection of Claim 19. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d. 1051, 1053 (Fed. Cir. 1987). For the reasons that will be discussed in detail below, Lucas fails to teach or suggest each and every element of amended Claim 19.

Claim 19 has been amended to recite a wheelchair barrier that includes an energy dissipation device for dissipating energy in the event of a wheelchair collision against the wheelchair barrier when the wheelchair barrier is in the barrier position. The energy dissipation device of amended Claim 19 includes an area of reduced strength oriented along a portion of the wheelchair barrier that yields when impacted by a wheelchair.

As best shown in FIGURES 1 and 6, Lucas purportedly teaches a plate assembly 35 that includes an entry gate 37 and safety gate 41 pivotally connected at opposite ends thereof. However, Lucas fails to teach that either the entry gate 37 or the safety gate 41 includes an energy dissipation device, as recited in Claim 19.

It is clear from the foregoing that Lucas fails to teach each and every element of amended Claim 19. Therefore, applicants respectfully request withdrawal of the rejection to Claim 19.

Claim Rejections Under 35 U.S.C. § 103

Claims, 1, 6, 8, 9, and 14-17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Cohn in view of Vartanian and Smalley. Claims 2-5 and 7 stand rejected as being unpatentable over Cohn in view of Vartanian and Smalley and in further view of Morris. Claims 10-13 stand rejected as being unpatentable over Cohn in view of Vartanian and Smalley and further in view of Lucas. Claim 18 stands rejected as being unpatentable over Vartanian in view of Smalley. Claim 39 stands rejected as being unpatentable over Fretwell in view of Lucas. Applicants have canceled Claims 2 and 39, thus rendering the rejections to these claims moot. Applicants respectfully traverse the rejections to the remaining claims.

Claim 1

Claim 1 has been amended to include the subject matter of dependent Claim 2. In the Office Action, Claim 2 stands rejected as being obvious over Cohn in view of Vartanian and Smalley and further in view of U.S. Patent Publication No. US 2003/0213653 A1. For at least the following reasons, the rejection to Claim 1 should be withdrawn.

Effective November 29, 1999, subject matter that was cited as prior art under 35 U.S.C. § 102(e) in combination with 35 U.S.C. § 103 is now disqualified as prior art against the claimed invention, if that subject matter and the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." M.P.E.P. § 706.02(l)(1) (8th Ed., Aug. 2001). In that regard, the present application and U.S. Patent Publication No. US 2003/0213653 A1 were, at the time the invention of the present application was made, subject to an obligation of assignment to Lift-U, Division of Hogan Mfg., Inc., a California corporation. The present application and U.S. Patent Publication

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No. US 2003/0213653 A1 have been subsequently assigned to Lift-U, Division of Hogan Mfg., Inc.

The foregoing statement alone is sufficient evidence to disqualify the prior art reference (U.S. Patent Publication No. US 2003/0213653 A1) against the claims of the present application. *Id.* at 700-39. Accordingly, because U.S. Patent Publication No. US 2003/0213653 A1 and the claimed embodiments of the present invention "were, at the time the invention was made, subject to an obligation of assignment to the same person," applicants respectfully submit that U.S. Patent Publication No. US 2003/0213653 A1 is disqualified as prior art against the claimed invention. 35 U.S.C. § 103(c). Therefore, the rejection of Claim 1 under 35 U.S.C. § 103(a) should be withdrawn. Further, the rejections to Claims 3-17 should also be withdrawn.

Claim 18

Claim 18 has been amended to include a barrier disposed along one of the widthwise ends and movable between at least a stowed position, and a raised, safety barrier position. Claim 18 has been further amended to recite that movement of the at least one handrail from the retracted position to the extended position causes the barrier to move from the stowed position to the safety barrier position. Applicants respectfully assert that Vartanian and Smalley fail to teach at least these elements of amended Claim 18.

Vartanian purportedly teaches a platform 32 includes roll-off gates 71 and 105a disposed on the outboard end and inboard end of the platform 32, respectively. See FIGURES 11a-11b and 12a-12b. The platform 32 further includes side handrail members 82. Vartanian teaches at column 15, lines 10-55 and column 16, lines 27-57, that movement of the lift platform causes the roll-off gates 71 and 105a to be unlocked from their upright positions and permitted to pivot to their lowered positions by contact with the ground (outboard roll-off gate 71) or a portion of the vehicle (inboard roll-off gate 105a). Further, Vartanian teaches at column 18, lines 5-17, that

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deployment and retraction of the lift platform 32 causes deployment and retraction of the side handrail members 82.

Nowhere, however, does it state that movement of one of the handrail members 82 from its retracted position (characterized as the "closed position" in Vartanian) causes any movement to one the roll-off gates 71 and 105a, as recited in amended Claim 18. Instead, movement of the roll-off gates 71 and 105a is caused by contact with either the ground surface or a portion of the vehicle. Therefore, Vartanian fails to teach or suggest every element of amended Claim 18. Further, applicants respectfully assert that Smalley fails to correct the deficiencies of Vartanian.

Under Section 103, the *prima facie* case of obviousness is established only if the cited references, alone or in combination, teach each of the limitations of the recited claims. *In re Bell*, 991 F.2d 781 (Fed. Cir. 1993). Both Vartanian and Smalley fail to teach that movement of at least one handrail from the retracted position to the extended position causes the barrier to move from the stowed position to the safety barrier position, as recited in amended Claim 18. Accordingly, applicants assert that a *prima facie* case of obviousness has not been established. Therefore, applicants respectfully request the pending rejection of Claim 18 under 35 U.S.C. § 103(a) be withdrawn.

New Claims 40-52

New Claims 40-52 have been added to particularly point out and distinctly claim the novel aspects of the present invention. Applicants respectfully assert that the newly submitted claims recite combinations of features neither taught nor suggested by the prior art. Accordingly, applicants respectfully submit that new Claims 40-52 are in condition for allowance.

CONCLUSION

In light of the foregoing amendments and remarks, applicants assert that the claims of the present application recite combinations of features neither taught nor suggested by the prior art.

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Therefore, applicants respectfully request early and favorable action and the allowance of all pending claims. If any further questions remain, the Examiner is invited to telephone applicants' attorney at the number listed below.

Respectfully submitted,

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